

UNITED STATES DISTRICT COURT EASTERN
DISTRICT OF NEW YORK

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STEVEN McCUNE,

Plaintiff

**Docket No.: CV-14-4431
(JS) (AKT)**

-against-

COUNTY OF SUFFOLK, COUNTY OF SUFFOLK POLICE
DEPARTMENT, POLICE OFFICER JOHN A. KURKLEN, in
his individual and official capacity, POLICE OFFICER
MICHAEL S. TURANSKY, in his individual and official
capacity, POLICE OFFICER CHRISTOPHER M.
ZUCCARELLO, in his individual and official capacity,
POLICE OFFICER JOHN A. VOHS, in his individual and
official capacity, and POLICE OFFICER "JOHN" AND
"JANE" DOES 1-10, Shield Nos. Unknown, individually and
in their official capacities, as police officers of the COUNTY
OF SUFFOLK POLICE DEPARTMENT

Defendants.

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PROPOSED JOINT PRETRIAL ORDER

I. THE FULL CAPTION OF THE ACTION

The caption as set forth above is the full caption of the within action.

II. TRIAL COUNSEL

Attorneys for Plaintiff

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III. BASIS OF SUBJECT MATTER JURISDICTION

Plaintiff's Statement

This action is brought by Plaintiff pursuant to 42 U.S.C. §1983 pursuant to the Fourth and Fourteenth Amendment of the United States Constitution. Subject matter jurisdiction is founded upon 28 U.S.C. §§ 1331, 1343(3) and the aforementioned statutory provisions. This Court is requested to exercise pendant jurisdiction with respect to the State law claims pursuant to 28 U.S.C. §1367.

Defendants' Statement

Subject matter jurisdiction is not disputed.

SUMMARY OF CLAIMS AND DEFENSES

Plaintiff's Statement

On July 23, 2014, in his initial Complaint, Plaintiff asserted claims seeking to hold Defendants County of Suffolk (hereinafter "COUNTY"), County of Suffolk Police Department (hereinafter "SCPD"), Police Officer John A. Kurklen (hereinafter "Kurklen"), Police Officer Michael S. Turansky (hereinafter "Turansky"), Police Officer Christopher M. Zuccarello (hereinafter "Zuccarello"), Police Officer John A. Vohs (hereinafter "Vohs") liable for committing the following offenses against Plaintiff:

- **First Count:** 42 U.S.C. §1983, Excessive Force, Abuse of process, False Arrest, False Imprisonment and Malicious Prosecution
- **Second Count:** 42 U.S.C. §1983 Municipal Liability
- **Third Count:** Malicious Prosecution Under State Law

On July 19, 2019, Plaintiff moved this Court seeking to amend the *Complaint* by withdrawing the following claims:

- 42 U.S.C. §1983 False Arrest, False Imprisonment
- 42 U.S.C. §1983 Malicious Prosecution
- State Law Malicious Prosecution

and keeping the remaining claims:

- 42 U.S.C. §1983 Abuse of Process
- 42 U.S.C. §1983 Excessive Force
- 41 U.S.C. §1983 Municipal Liability

Claims Which Remain to be Tried:

On August 22, 2019, on consent, this Court granted Plaintiff's *Motion to Amend the Complaint*. Accordingly, the following claims remain to be tried:

- 42 U.S.C. §1983 Abuse of Process
- 42 U.S.C. §1983 Excessive Force
- 41 U.S.C. §1983 Municipal Liability

Defendants' Defenses

- 1) Plaintiff's guilty pleas bars his claim for abuse of process. *Morrison v. Vine*, 2021 WL 1229558 (W.D.N.Y.Feb. 25, 2021).
- 2) That the amended complaint fails to state a claim upon which relief can be granted.
- 3) That the damages sustained by plaintiff, if any, were caused by the plaintiff's own culpable and/or negligent conduct.
- 4) That the amended complaint fails to set forth facts sufficient to constitute a deprivation of

any constitutional right or other basis for a civil rights claim.

- 5) That no policy, statement, ordinance, regulation or decision officially adopted and/or promulgated by defendants or otherwise ratified by defendants authorized a deprivation of plaintiff's constitutional rights.
- 6) That no custom or usage adopted, followed, endorsed or ratified by defendants authorized a deprivation of plaintiff's constitutional rights.
- 7) That the doctrines of respondent superior and vicarious liability do not apply to a civil rights claim.
- 8) That municipal defendants are not liable for punitive damage awards.
- 9) That plaintiff has failed to comply with the statutory conditions precedent to commencement of an action against municipal defendants as set forth in the New York General Municipal Law.
- 10) That defendant s' actions, if any, were justified by the facts and circumstances presented.
- 11) That the arrest and/or detention, if any, were reasonable and based upon probable cause to believe that the plaintiff had committed a crime and/or offense.
- 12) That the defendants, at all times complained of, acted reasonably and in good faith in the discharge of their official duties and responsibilities.
- 13) That defendants acted in what they did solely pursuant to their duties and responsibilities as law enforcement and/or prosecuting officials.
- 14) That defendants at all times acted in good faith in that they reasonably believed that they were exercising and acting within their statutory and constitutional powers.

15) That in performing such duties and responsibilities, defendants are and were protected by absolute and/or qualified Federal and/or State immunity.

16) That this action is barred by the doctrines of qualified and/or absolute governmental immunity for discretionary acts.

17) That the Suffolk County Police Department is not an entity susceptible to suit.

**TRIAL WITH OR WITHOUT A JURY
AND NUMBER OF TRIAL DAYS**

Plaintiff's Statement

Plaintiff requests that this matter be tried before a jury. Plaintiff anticipates that his case can be presented in three four (4) days.

Defendants' Statement:

Defendants anticipate that their case can be presented in three (3) days.

**VI.
TRIAL BY MAGISTRATE JUDGE**

One or both of the parties do not consent to a trial before the presiding Magistrate Judge.

**VII.
STIPULATION OR AGREED STATEMENTS OF FACT OR LAW**

Stipulation of Facts

1. During their interaction, if any, with plaintiff on April 3, 2012, individual defendants were acting under color of law.

VIII.
WITNESSES

Plaintiff's Fact Witnesses

It is anticipated that the following individuals will testify as witnesses in Plaintiff's case in chief:

1. STEVEN MCCUNE

Mr. McCune is the Plaintiff in this matter. Mr. McCune will testify concerning the abuse and injuries he suffered at the hands of the Defendant Police Officers, as set forth in the facts of the Amended Complaint of this matter. Mr. McCune will testify in person.

2. POLICE OFFICER JOHN A. KURKLEN, Shield #5270

John Kurklen is a Defendant in this matter, and is employed by the County of Suffolk, Suffolk County Police Department. Defendant Kurklen will be called upon to testify regarding the arrest and assault upon Plaintiff, as set forth in the facts of the Amended Complaint. It is anticipated that Defendant Kurklen will testify in person.

3. POLICE OFFICER MICHAEL S. TURANSKY, Shield #5325

Michael Turansky is a Defendant in this matter, and is employed by the County of Suffolk, Suffolk County Police Department. Defendant Turansky will be called upon to testify regarding the arrest and assault upon Plaintiff, as set forth in the facts of the Amended Complaint. It is anticipated that Defendant Turansky will testify in person.

4. POLICE OFFICER CHRISTOPHER M. ZUCCARELLO, Shield #5348

Christopher Zuccarello is a Defendant in this matter, and is employed by the County of Suffolk, Suffolk County Police Department. Defendant Zuccarello will be called upon to testify regarding the arrest and assault upon Plaintiff, as set forth in the facts of the Amended Complaint. It is anticipated that Defendant Zuccarello will testify in person.

5. DETECTIVE JOHN A. VOHS, Shield #1193

John Vohs is a Defendant in this matter, and is employed by the County of Suffolk, Suffolk County Police Department. Defendant Vohs will be called upon to testify regarding the arrest and assault upon Plaintiff, as set forth in the facts of the Amended Complaint. It is anticipated that Defendant Vohs will testify in person.

6. POLICE OFFICER DENNIS HENDRICKSON, Shield #5441

Dennis Hendrickson is a non-party witness, and is employed by the County of Suffolk,

Suffolk County Police Department. Officer Hendrickson will be called upon to testify regarding the arrest and assault upon Plaintiff, as set forth in the facts of the Amended Complaint. It is anticipated that Officer Hendrickson will testify in person.

7. POLICE OFFICER VINCENT TERMINE

Vincent Termine is a non-party witness, and is a former employee of the County of Suffolk, Suffolk County Police Department. Officer Termine will be called upon to testify regarding the arrest, assault, and use of a Taser upon Plaintiff, as set forth in the facts of the Amended Complaint. It is anticipated that Mr. Termine will testify in person.

8. SGT. MICHAEL RAFFERTY, Shield #5441

Michael Rafferty is a non-party witness, and is employed by the County of Suffolk, Suffolk County Police Department. Sgt. Rafferty will be called upon to testify regarding the arrest and assault upon Plaintiff, as set forth in the facts of the Amended Complaint. It is anticipated that Sgt. Rafferty will testify in person.

9. POLICE OFFICER THOMAS LAFEMIA, Shield #5754

Thomas LaFemia is a non-party witness, and is an employee of the County of Suffolk, Suffolk County Police Department. Mr. LaFemia will be called upon to testify regarding the arrest and assault upon Plaintiff, as set forth in the facts of the Amended Complaint. It is anticipated that Mr. LaFemia will testify in person.

10. POLICE OFFICER CHRISTOPHER ZUCCARELLO, Shield #5348

Christophe Zuccarello is a non-party witness, and is an employee of the County of Suffolk, Suffolk County Police Department. Mr. Zuccarello will be called upon to testify regarding the arrest and assault upon Plaintiff, as set forth in the facts of the Amended Complaint. It is anticipated that Officer Zuccarello will testify in person.

11. POLICE OFFICER MICHAEL MCCABE, Shield #4577

Michael McCabe is a non-party witness, and is an employee of the County of Suffolk, Suffolk County Police Department. Officer McCabe will be called upon to testify regarding the arrest and assault upon Plaintiff, as set forth in the facts of the Amended Complaint. It is anticipated that Officer McCabe will testify in person.

12. JASON BASSETT, ESQ.

Mr. Bassett is a non-party witness, and was the former attorney of Plaintiff, and represented Plaintiff in the underlying criminal matter. Mr. Bassett will be called upon to testify regarding the arrest, and assault upon Plaintiff, as set forth in the facts of the Amended Complaint. It is anticipated that Officer McCabe will testify in person.

13. MATTHEW RUTMAN, D.O.

Dr. Rutman is a non party witness, and was Plaintiff's treating Emergency Room physician during his admission to Southside Hospital on March 3, 2012. Dr. Rutman will be called upon to discuss Plaintiffs' injuries and treatment during his stay in the hospital. It is anticipated that Dr. Rutman will testify in person.

14. SUZANNE ABRAMS, R.N.

Ms. Abrams is a non-party witness, and was the Primary R.N., in the Emergency Room during Plaintiff's admission to Southside Hospital on March 3, 2012. Nurse Abrams will be called upon to discuss Plaintiff's injuries and treatment during his stay in the hospital. It is anticipated that Nurse Abrams will testify in person.

15. DONALD FAGELMAN, M.D.

Dr. Fagelman is a non-party witness, and was Plaintiff's Attending Radiologist during Plaintiff's admission to Southside Hospital on March 3, 2012. Dr. Fagelman will be called upon to discuss Plaintiffs' injuries and treatment during his stay in the hospital. It is anticipated that Dr. Fagelman will testify in person.

16. ROBERT PRICHEP, M.D.

Dr. Prichep is a non party witness, and was Plaintiff's treating physician during Plaintiff's admission to Southside Hospital on March 3, 2012. Dr. Prichep will be called upon to discuss Plaintiff's injuries and treatment during his stay in the hospital. It is anticipated that Dr. Prichep will testify in person.

17. DAVID MALAKA, M.D.

Dr. Malaka is a non party witness, and was Plaintiff's treating physician during Plaintiff's admission to Southside Hospital on March 3, 2012. Dr. Malaka will be called upon to discuss Plaintiff's injuries and treatment during his stay in the hospital. It is anticipated that Dr. Malaka will testify in person.

18. ERIC PRICE, M.D.

Dr. Price is a non party witness, and was Plaintiff's treating physician during Plaintiff's admission to Southside Hospital on March 3, 2012. Dr. Price will be called upon to discuss Plaintiff's injuries and treatment during his stay in the hospital. It is anticipated that Dr. Price will testify in person.

19. SHREYAS MISTRY, M.D.

Dr. Mistry is a non party witness, and was Plaintiff's treating physician during Plaintiff's admission to Southside Hospital on March 3, 2012. Dr. Mistry will be called upon to discuss Plaintiff's injuries and treatment during his stay in the hospital. It is anticipated that Dr. Mistry will testify in person.

20. ROBERT ZORN, M.D.

Dr. Zorn is a non party witness, and was Plaintiff's treating physician during Plaintiff's admission to Southside Hospital on March 3, 2012. Dr. Zorn will be called upon to discuss Plaintiff's injuries and treatment during his stay in the hospital. It is anticipated that Dr. Zorn will testify in person.

Plaintiff's Expert Witness

Plaintiff has not designated an expert witness.

Defendants' Witnesses

In addition, to the persons named in plaintiff's list of witnesses, whom defendants reserve the right to call as witnesses regardless of whether or not called by plaintiff, defendants intend to call the following persons as witnesses:

1) Keith Kramer

Witness will testify as to his interaction with plaintiff of April 3, 2012.

2) Peter Scheuerer

Witness will testify as to his interaction with plaintiff of April 3, 2012.

Objection: Witness not identified Pursuant to Fed. R.Civ. 26

3) Howard Simon

Witness will testify as to his interaction with plaintiff of April 3, 2012.

4) Representative of Suffolk County Police Department Communications Bureau

Witness will authenticate Suffolk County Police Department recordings, if necessary.

Objection: Witness not identified Pursuant to Fed. R. Civ. P. 26; Plaintiff has no knowledge as to the identity of this individual, nor what information he possess concerning this matter.

5) Michael O'Grady

Witness will testify regarding his interaction with plaintiff and his call to the Suffolk County Police Department for assistance on April 3, 2012.

Defendants' Expert Witness

Defendants have not designated an expert witness.

IX.

DEPOSITION TESTIMONY TO BE OFFERED AT TRIAL

Plaintiff's Statement

Plaintiff does not designate any deposition testimony to be offered in the case; except in the event of the unavailability of a witnesses, or for impeachment purposes.

Defendants' Statement

At this time, defendants do not intend to offer any deposition testimony at trial, but fully reserve their right to use all deposition testimony for impeachment and other purposes permitted under the Federal Rules of Civil Procedure and Federal Rules of Evidence.

X.**EXHIBITS TO BE OFFERED AT TRIAL****Plaintiff's Exhibits**

The following exhibits will be offered in Plaintiff's case in chief:

EXHIBIT NO.	DESCRIPTION	OBJECTIONS
1.	Deposition in Support of Drug Charge by Det. Dennis Murphy, shield no.: 941, dated April 3, 12, bates stamp# McCune 00001	Irrelevance, hearsay
2.	Deposition of P.O. John Kurklen, sworn to on 04/03/12, for offense of CPCS7 degree, and resisting arrest, bates stamp# McCune 00002	Irrelevance, hearsay
3.	Deposition of Christopher Zuccarello, sworn to on 04/03/12, for offense of CPCS7 degree, and resisting arrest, bates stamp# McCune 00003	Irrelevance, hearsay
4.	Letter, dated May 29, 2012, from Jason Bassett to ADA Michael Ross regarding the return of property seized by SCPD from Plaintiff, bates stamp# McCune 00004-5, 00008-9	Irrelevance, hearsay
5.	Notice of Demand to be Notified of Presentation to the Grand Jury- Docket Nos. 012SU019535, 536, bates stamp# McCune 00010-11	Irrelevance, hearsay
6.	Letter, dated May 22, 2012, from Jason Bassett, Esq., to Southside Hospital, bates stamp# McCune 00012-13	Irrelevance, hearsay

7.	<p>Fax Coversheet, dated 08/08/12, from Michael Ross to Jason Bassett, with documents:</p> <ul style="list-style-type: none"> •Property Release form - bates stamp# McCune 0015 •Memo from Ross to Property Clerk, dated 07/09/12, re: Release of Property belonging to Plaintiff - bates stamp# 00016 •Letter, dated 07/09/12, from Michael Ross to Plaintiff concerning location of his property - bates stamp# 00017 	Irrelevance, hearsay
8.	Memo, dated 04/18/12, from Michael Ross, regarding voluntary discovery, bates stamp# McCune 00018	Irrelevance, hearsay
9.	NYSID Report with Plaintiff's arrest records, bates stamp# McCune 00019-31	
10.	Fax, dated 05/05/12 from Jason Bassett to Robert Gallo, together with authorization for release of photographs of Plaintiff, bates stamp# McCune 00032-34	Irrelevance, hearsay
11.	Dkt. No.: 2012SU19535, Felony Complaint, sworn to by John R. Vohs, dated 04/03/12, charging Plaintiff with: Count #001 Assault in the 2 nd Degree, in violation of PL 120.05(03), bates stamp# 00041-42	Irrelevance, hearsay
12.	Dkt. No.: 2012SU19535, Felony Complaint, sworn to by John R. Vohs, dated 04/03/12, charging Plaintiff with: Count #002 Assault in the 2 nd Degree in violation of PL 120.05(03), bates stamp# 0043-44	Irrelevance, hearsay
13.	SCPD Deposition to John Kurklen, dated 04/03/12, n support of charge Assault 2 nd degree, bates stamp# McCune 00045	Irrelevance, hearsay
14.	SCPD Deposition of Christopher Zucarello, dated 04/03/12, in support of charge Assault 2 nd degree, bates stamp# McCune 00046	Irrelevance, hearsay

15.	Dkt. No.: 2012SU19536, Misdemeanor Information, sworn to by Michael S. Turansky, dated 04/04/12, charging Plaintiff with: Count #001 Criminal Possession of a Controlled Substance 7 th degree, in violation of PL 220.03, bates stamp# McCune 00047	Irrelevance, hearsay
16.	SCPD Statement Form, prepared by Michael O'Grady, daed 04/03/12, bates stamp# McCune 00048-49	Irrelevance, hearsay
17.	Dkt. No.: 2012SU19536, Misdemeanor Information sworn to by Michael S. Turansky, dated 04/04/12, charging Plaintiff with: Count #002 Criminal Possession of a Controlled Substance, 7 th degree, in violation of PL 220.03, bates stamp# McCune 00050	Irrelevance, hearsay
18.	Dkt. No.: 2012SU19536, Misdemeanor Information sworn to by Michael S. Turansky, dated 04/04/12, charging Plaintiff with: Count #003 Resisting Arrest, in violation of PL 205.30, bates stamp# McCune 00051	Irrelevance, hearsay
19.	Photograph of Plaintiff's injuries: bates stamp# McCune 00054	Redundancy, prejudice
20.	Photograph of Plaintiff's injuries: bates stamp# McCune 00055	Redundancy, prejudice
21.	Photograph of Plaintiff's injuries: bates stamp# McCune 00056	Redundancy, prejudice
22.	Photograph of Plaintiff's injuries: bates stamp# McCune 00057	Redundancy, prejudice
23.	Photograph of Plaintiff's injuries: bates stamp# McCune 00058	Redundancy, prejudice
24.	Photograph of Plaintiff's injuries: bates stamp #McCune 00059	Redundancy, prejudice
25.	Photograph of Plaintiff's injuries: bates stamp# McCune 00060	Redundancy, prejudice
26.	Photograph of Plaintiff's injuries: bates stamp# McCune 00061	Redundancy, prejudice

27.	Photograph of Plaintiff's injuries: bates stamp# Southside Hosp-SCPD-cc no.: 12-216578 01	Redundancy, prejudice
28.	Photograph of Plaintiff's injuries: bates stamp# Southside Hosp-SCPD-cc no.: 12-216578 02	Redundancy, prejudice
29.	Photograph of Plaintiff's injuries: bates stamp# Southside Hosp-SCPD-cc no.: 12-216578 03	Redundancy, prejudice
30.	Photograph of Plaintiff's injuries: bates stamp# Southside Hosp-SCPD-cc no.: 12-216578 04	Redundancy, prejudice
31.	SCPD Supplementary Report, prepared by Def. Kurklen, dated 04/03/12, bates stamp# Att-12-1	Irrelevance, hearsay
32.	SCPD Subject Resistance Report, prepared by Def. John Kurklen, dated 04/03/12, bates stamp# Att-7-2	Irrelevance, hearsay
33.	SCPD Injured Employee Report, prepare for Def. John Kurklen, dated 04/03/12, bates stamp# Att#10-1	Irrelevance, hearsay, doctor patient privilege
34.	SCPD Internal Correspondent to: Lt. Corsino from : Def. Kurklen, dated 01/23/2015, re: I.A.B. Case #12-509i, bates stamp# Att#17-1-17-2	Irrelevance, hearsay
35.	SCPD Taser Report, serial no.: X00-384757, record date range: 04/02-04/12, P.O. Kurklen, bates stamp# Att#8-1	Irrelevance, hearsay
36.	SCPD Use of Force Report, IA No. UOF2012-0163, rec'd 04/04/12, Case No.: 12-216578, bates stamp# Att#9-1-9-5	Irrelevance, hearsay
37.	SCPD Internal Correspondence, dated 02/08/15 to Lt. Corsino, from Michael Turansky, re: IAB #12-5091, bates stamp# Att-24	Irrelevance, hearsay
38.	SCPD Arrest/Charge Data, printed 11/21/2013, prepared by Michael Turansky, for arrest of Plaintiff on 04/03/12, bates stamp# Att#6-1	Irrelevance, hearsay
39.	SCPD Arrest/Charge Data, printed 11/21/13, prepared by Michael Turansky, for arrest of Plaintiff on 04/03/12, bates stamp# Att# 6-3-6-4	Irrelevance, hearsay

40.	SCPD Security Envelope No.: 185126, handled by Michael Turansky, with Evidence Analysis Request, dated 04/03/12, bates stamp# Att#-13-2 &13-3	Irrelevance, hearsay
41.	SCPD Property Section Invoice Receipt, prepared by Michael Turansky, bates stamp# Att#13-1	Irrelevance, hearsay
42.	SCPD Incident Report Continuation, report dated 05/02/12, prepared by Jon R. Vohs, Turansky ebt exh. 6	Irrelevance, hearsay
43.	SCPD Arrest Report, CC: 12-0216578, prepared by John Vohs, Turansky, ebt exh. 7	Irrelevance, hearsay
44.	SCPD Incident Report, CC: 12-0216735 dated 04/03/12, prepared by Michael Turansky, bates stamp# Att#3-1-3-2	Irrelevance, hearsay
45.	SCPD Department General Order - Use of Physical Force - Order No.: 11-60, 11-81	Irrelevance, hearsay
46.	SCPD Use of Physical Force - Non Lethal Weapons and Equipment - Order No.: 11-80	Irrelevance, hearsay
47.	SCPD Injured Employee Report, prepared by Christopher Zuccarello, dated 04/13/12, bates stamp# Att#-10-2	Irrelevance, hearsay, doctor patient privilege
48.	SCPD Subject Resistance Report, dated 04/03/12, prepared by Christopher Zuccarello, dated 04/08/12, bates stamp# Att#-7-1	Irrelevance, hearsay
49.	SCPC Internal Correspondence to: Lt. Christopher Corsino from Christopher M. Zuccarello, dated 01/27/15, re: IAB Case #12-509i, bates stamp# Att#18	Irrelevance, hearsay
50.	Notice of Claim, bates stamp #McCune 00147-149	
51.	SCPD Internal Correspondence to: C.O. Internal Affairs Bureau, from: Nancy Zinser, dated: 07/06/12, re: Internal Affairs Bureau Alert Report, IA #12-509i, date rec'd: 07/05/12, bates stamp# Att#1-1	Irrelevance, hearsay

52.	SCPD Subject Resistance Report, dated 04/03/12, prepared by Thomas LaFemina, bates stamp# Att #7-5	Irrelevance, hearsay
53.	SCPD Internal Correspondence, dated: 05/25/15, to: Inspector Amando Valencia, Commanding Officer Internal Affairs Bureau, from: Capt. Kevin M. Foley, Internal Affairs Bureau, re: Internal Affairs Case #2012-509i	Irrelevance, hearsay
54.	SCPD Internal Correspondence, dated 03/03/15, to: Inspector Armando Valencia, from: Lieutenant Christopher Corsino 1500/T1, re: Internal Affairs Bureau Case #12-5091 Notice of Claim/Summons and Complaint, pgs. 1-12	Irrelevance, hearsay
55.	Taser Firing Data, serial no.: X00-588287, for period 04/02-04/12, P.O. Rafferty, bates stamp# Att#8-2	Irrelevance, hearsay
56.	SCPD Subject Resistance Report, dated 04/03/12, prepared by Dennis M. Hendrickson, bates stamp# Att#7-7	Irrelevance, hearsay
57.	SCPD Internal Correspondence, dated 01/16/2015, to Lt. Corsino, from Dennis M. Hendrickson, re: Internal Affairs Bureau Alert #12-509i, bates stamp# Att-20	Irrelevance, hearsay
58.	SCPD Subject Resistance Report, dated 04/03/12, reported by Michael Rafferty, bates stamp# Att#7-3	Irrelevance, hearsay
59.	SCPD Internal Correspondence, dated 02/25/15, to: Lt. Christopher Corsino, from Sgt. Michael Rafferty, re: IAB Alert #12-509i, bates stamp# 19	Irrelevance, hearsay
60.	SCPD, Supplementary Report, dated 04/03/12, prepared by Sgt. Michael Rafferty, bates stamp# Att #12-4	Irrelevance, hearsay
61.	Transcript of 50-H hearing of Steven McCune, conducted on 08/22/12, bates stamp #McCune 00062-149	
62.	SCPD Supplementary Report, CC No.: 12-216578, dated 04/03/12, prepared by Zuccarello	Irrelevance, hearsay

63.	SCPD Information or Recording Search Request, requested by John Vohs, shield #1193, dated 04/03/12	Irrelevance, hearsay
64.	SCPD CC No.: 12-216735, Identification Section Report, Investigator John Vohs, prepared by Steven Georges, Evidence Specialists, regarding his going to Southside Hosp., to take fingerprints and mug photos of Steven McCune	Irrelevance, hearsay
65.	SCPD notes of interview at Southside Hosp., prepared by member of SCPD	Irrelevance, hearsay
66.	SCPD Arrest Worksheet, prepared by Turansky	Irrelevance, hearsay
67.	SCPD Arrest Report CC No.: 12-0216735/SPD, dated 04/03/12, prepared by Michael Turansky	Irrelevance, hearsay
68.	SCPD Prisoner Activity Log for period 04/04/12 - 04/10/12, Michael Turansky arresting officer	
69.	SCPD Subject Resistance Report, dated 04/04/12, prepared by Keith Kramer, shield #4400	Irrelevance, hearsay
70.	SCPD Subject Resistance Report, dated 04/04/12, prepared by Michael K. McCabe, shield #4577	Irrelevance, hearsay
71.	SCPD Scene Log; log initiated 04/03/12 @1900 hrs; log terminated 04/03/12@2010 hrs., prepared by Keith Kramer 4400	Irrelevance, hearsay
72.	Plaintiff's medical records from Southside Hospital	Irrelevance, hearsay

Defendants' Exhibits

In addition to the items listed in plaintiff's Exhibit List, which defendants reserve the right to offer in evidence if not offered, or received when offered, by plaintiff, defendants intend to offer the following items in evidence, in whole or in part:

EXHIBIT NO.	DESCRIPTION	OBJECTIONS
A	Transcript of plaintiff's deposition taken August 25, 2020	
B	Plaintiff's Arrest Paperwork, cc #12- 216735	Hearsay, unable to identify what documents and relevance
C	Suffolk County Police Department audio recordings related to subject incident	
D	Plaintiff's Response to Defendants' First Set of Interrogatories dated February 4, 2020	Object to the wholesale use without limiting rulings
E	Transcript of proceedings in People v. Steven McCune, Supreme Court, County of Suffolk, case # 1054-2014, December 9, 2014	Objection; hearsay, relevance, FRE 401 and 403
F	Transcript of proceedings in People v. Steven McCune, Supreme Court, County of Suffolk, docket #2012-010385, May 19, 2015	Objection; hearsay, relevance, FRE 401 and 403
G	Transcript of proceedings in People v. Steven McCune, Supreme Court, County of Suffolk, docket #s 2016SU018209S, 2015SU05266, 2016SU044654S, 2017SU011695S, September 8, 2017	Objection; hearsay, relevance, FRE 401 and 403

RESERVATION OF RIGHTS

Subject to the ruling of this Court, Plaintiff and Defendants, by and through counsel, reserve their respective rights to amend and to supplement this Pre-Trial Order.

Subject to the ruling of this Court, Plaintiff and Defendants reserve the right to use any relevant and admissible exhibit identified by Plaintiff's or Defendants' exhibit lists whether or not the Plaintiff or Defendants actually offers such exhibit at the time of trial.

Subject to the ruling of this Court, Plaintiff and Defendant reserve the right to object to any of Plaintiff's or Defendants' exhibits which have not been provided to either party.

Subject to the ruling of this Court, Plaintiff and Defendants respectfully reserve the right to offer for evidence any items, information, and documents obtained pursuant to subpoena.

Subject to the ruling of this Court, Plaintiff and Defendants additionally reserve the right to object to Plaintiff's or Defendants' exhibits based on relevancy or other evidentiary grounds.

The Parties respectfully reserve the right, subject to the ruling of this Court, to call upon any witnesses identified by each other's Joint Pre-Trial Order in this action.

Dated: October 8, 2021

LAW OFFICES OF
FREDERICK K. BREWINGTON

DENNIS M. COHEN
COUNTY ATTORNEY

/s/ Frederick K. Brewington

/s/ Arlene S. Zwilling

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